



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411
BOSTON, MASSACHUSETTS 02108
(617) 727-8352
(800) 462-OCPF

MARY F. McTIGUE
DIRECTOR

March 18, 1994
AO-94-10

Representative Peter Forman
51 Warren Avenue
Plymouth, MA 02360

Re: Reimbursement of commuting expenses

Dear Representative Forman:

This letter is in response to your February 17, 1994 request for an advisory opinion concerning reimbursement of commuting expenses incurred through the use of an automobile leased by your political committee.

You have stated that your political committee is making the lease payments for an automobile which you use to commute from Plymouth to Boston. On most days when you commute to Boston you spend some time in the State House and some time in your Boston campaign office.

You have asked if your committee can pay the entire amount of your lease payments. You have stated that you do not intend to use the car for any personal matters, and that you understand that you must reimburse the committee for any incidental personal use. If your committee can continue to pay the lease payments, you will forgo any per diem that you might otherwise be entitled to, pursuant to M.G.L. c. 3, s. 9B, as a member of the Legislature.¹

For the reasons which follow, your political committee may make all lease payments since you have decided to forgo the per diem.²

1. M.G.L. c. 3, s. 9B provides allowances "for mileage, meals and lodging" which vary depending on the distance a legislator must travel to attend sessions of the Legislature.

2. You have not asked me to give an opinion regarding the propriety of your accepting the per diem while also receiving some amount of reimbursement from, or lease payment by, your political committee to compensate you for expenses exceeding the per diem and this issue is not discussed in this opinion.

Section 6 of M.G.L. c. 55 states, in pertinent part, "[a] . . . political committee . . . may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . ." (Emphasis added).

Section 379 of Chapter 133 of the Acts of 1992 amended Section 6 to specifically exclude expenses related to constituent and legislative services from the term "personal use." The section now provides, in relevant part:

For the purposes of this section the term "personal use" shall not include expenses relating to the provision of constituent or legislative services or to the opening or maintaining of a legislative district office, provided that said expenses are not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body. [emphasis added].

Prior to the 1992 amendment to Section 6, this office would have advised you that you could not use campaign funds for such commuting expenses. See AO-87-02, AO-90-02, and M-90-02. The reasonable costs incurred in commuting to the State House, however, are clearly expenses "relating to the provision of constituent or legislative services." Section 6 as now drafted compels the conclusion that commuting expenses, as described in your letter, including the lease payments for an automobile used only for political, legislative, and/or constituent services, may be paid by your political committee. Such payment may not be received, however, if a you are otherwise paid by the government for the same travel expenses, e.g., by the per diem.

This opinion is limited to the facts presented in your letter, and is solely in the context of M.G.L. c. 55. If you have additional questions, please do not hesitate to contact this office.

Very truly yours,



Mary F. McTigue
Director

MFm/cp